

MEMORANDUM

TO: Planning Commission
FROM: Planning Staff
RE: Section 9.5-122.3(a)(5) ROGO 6 point unit dedication
DATE: June 7, 2006



After further review of the proposed Ordinance which would grant six (6) points for each affordable unit that may be built on the donated parcel, Staff has some questions and comments.

To aid in the understanding of this Ordinance Staff provides an example of an owner of a legally platted, buildable Mixed Use (MU) district lot, upon which no negative environmental conditions exist. This Lot is dedicated to the County and in exchange the applicant receives 86 points (14 units X 6 points).

It is hard to determine exactly how many points will be competitive in the proposed Tier system, however an application which proposes development within an area designated as Tier III outside of Big Pine Key or No Name Key receives + 30 points. If 35 points becomes the average for receiving a ROGO exemption, then the applicant donating the MU Lot would have many points to bank or transfer to any other site in the County, possibly as many as 80. This could put the single family Lot owner at a large disadvantage.

After further review of the Tier Ordinance, Staff finds that this proposed + 6 point system may discourage the voluntary dedication of vacant, buildable land within Tier I and Tier II for the purposes of conservation, resource protection, restoration and density reduction due to the drastic difference in points available for a dedicatable affordable Lot. For instance, an application that includes the dedication of one vacant, legally buildable Lot zoned SC shall receive +4 total in the proposed Tier system, regardless of the amount of units that can be built.

Further, these points do nothing to ensure that an affordable Lot is built, whereas under the proposed Tier an application for market rate housing units which are part of an employee or affordable housing project receives +6 points.

Staff recommends that the points offered per unit be reduced. Otherwise, the single Lot owner is at a disadvantage.

Thank you.

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MEMORANDUM (STAFF REPORT)

TO: Monroe County Planning Commission

FROM: Jerry Coleman

DATE: June 20, 2006

MEETING DATE: June 28, 2006

RE: REVISIONS TO MONROE COUNTY LAND DEVELOPMENT
REGULATIONS, SECTION 9.5-122.3(a)(5) – Adjusting the ROGO
Point System Increasing the Permitted Point Award for Certain Land
Donations

I. BACKGROUND

A December 15, 2005 Task Force resolution recommended that the Board of County Commissioners consider adjusting the ROGO point system to permit an award of six (6) points for the donation to the County of a “ROGO-lot”, in cases where no negative environmental conditions on the lot or other factors would otherwise prevent the immediate construction of an affordable/employee housing unit by a qualified owner/developer.

This memorandum/staff report draws from the amendments that were previously discussed at the Workforce Housing Task Force workshop meetings with the Board of County Commissioners, held on February 10, 2006 (the BOCC approved the recommendation for these changes at its regularly scheduled meeting in Key Largo on February 15, 2006) and at a Planning Commission/Workforce Housing Task Force joint meeting held on March 8, 2006. The attached version of the proposed ordinance was discussed and approved at the regularly scheduled Development Review Committee meeting in Marathon on May 23, 2006. On June 14, 2006, the Planning Commission continued the proposed ordinance to their regularly scheduled meeting in Key Largo on June 28, 2006.

For donated parcels upon which more than a single unit of affordable/employee housing can immediately be constructed, the donor shall receive six (6) points for each such unit that may be built on the donated parcel—however any points award under the proposed ordinance shall be based upon buildability of units that count as a full ROGO allocation (i.e., not affordable ROGO half units). Under the proposed amendments, the ROGO or scoring points shall be bankable,

transferable, assignable and capable of being used to obtain an award for an allocation in any Monroe County planning subarea on equal or less environmentally sensitive land than the donated lot(s), excluding Tier I areas, Big Pine and No Name Keys or Special Protection Areas where clearing of native vegetation would result.

Attached for the Commission's additional review is a copy of the City of Marathon's recently adopted land donation ordinance (Ordinance 2006-05).

II. SUMMARY

The proposed changes are as follows:

Amend Sec. 9.5-122.3(a)(5) to read as follows:

Section 9.5-122.3. Evaluation criteria.

(a) *Evaluation Criteria:* the point values established on the following pages are to be applied cumulatively except where otherwise specified.

(5) *Land Dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection, **or affordable and/or employee housing.**

TABLE INSET:

Point Assignment:	Criteria:
+ 2	An application which includes the dedication to Monroe County of one (1) vacant, legally platted buildable lot or at least one (1) acre of unplatted buildable land located within a conservation area or areas proposed for acquisition by governmental agencies for the purposes of conservation and resource protection.
+2	An application which includes the dedication to Monroe County of either an additional legally platted, buildable lot, or an additional one (1) acre of unplatted buildable land located in areas proposed for acquisition by governmental agencies for the purposes of conservation or resource protection.
+6	<u>An application which includes the dedication to Monroe County of one (1) legally platted, buildable lot, upon which no negative environmental conditions or other factors would otherwise prevent the immediate construction of an affordable/employee housing unit by a qualified owner/developer. For donated parcels upon which more than a single unit of affordable/employee housing can immediately be constructed, the donor shall receive six (6) points for each</u>

	<u>such unit that may be built on the donated parcel. Any points awarded under this section shall be based upon buildability of units that count as a full ROGO allocation (i.e., not affordable ROGO half units), regardless of the size of the unit. ROGO or scoring points awarded hereunder shall be bankable, transferable, assignable and capable of being used to obtain an award for an allocation in any Monroe County planning subarea on equal or less environmentally sensitive land than the donated lot, excluding Tier I areas, Big Pine Key, No Name Key or Special Protection Areas where any clearing of native vegetation would be required.</u>
	<i>Additional requirements:</i> 1. “Buildable” means construction of a dwelling unit or some development that could be permitted, as determined by the director of planning.
	2. The application shall include but not be limited to the following:
	<ul style="list-style-type: none"> • An affidavit of ownership of all affected lots, parcels, acreage or land;
	<ul style="list-style-type: none"> • A statutory warranty deed that conveys the dedicated property to the County shall be approved by the growth management director and County attorney and recorded in the office of the County clerk prior to the issuance of any building permit pursuant to an allocation award.

Current Code § 9.5-122.3(a)(5) permits an award of only two (2) points for the donation of a so-called “ROGO-lot” to the County, but does not contemplate such land dedications for affordable housing uses.

III. FINDINGS OF FACT

1. Staff finds that the proposed changes are consistent with Section 9.5-511(d)(5)b.(i), (ii), (iv) and (v); to wit, “changed projections”, “changed assumptions”, “new issues” and “recognition of a need for additional detail or comprehensiveness”.
2. Staff finds the amendment consistent with the goals, objectives, and policies of the Monroe County Year 2010 Comprehensive Plan.
3. Other Keys jurisdictions are adopting similar ordinances.
4. Staff finds the amendment consistent with F.A.C. Chapters 9J-5, Florida Statutes, Chapter 163 and The Principles for Guiding Development.

IV. PROPOSED TEXT CHANGE

Please see attached ordinance.

V. RECOMMENDED ACTION

Based on the Findings of Fact, Staff and Workforce Housing Task Force counsel, the Development Review Committee recommends that the Planning Commission recommend **APPROVAL** of the proposed text changes to Section 9.5-122.3(a)(5) of the Monroe County Land Development Regulations.

ORDINANCE NO. ____ - 2006

AN ORDINANCE OF THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING SEC. 9.5-122.3(a)(5) OF THE LAND DEVELOPMENT REGULATIONS ADJUSTING THE ROGO POINT SYSTEM INCREASING THE PERMITTED POINT AWARD FOR CERTAIN LAND DONATIONS; AMENDING AND/OR ADDING FOR CONSISTENCY PURPOSES RELATED PROVISIONS; PROVIDING FOR SEVERABILITY AND REPEAL OF INCONSISTENT PROVISIONS; PROVIDING EFFECTIVE DATE; PROVIDING FOR INCORPORATION IN THE MONROE COUNTY CODE OF ORDINANCES

WHEREAS, the Board of County Commissioners has considered the comments of the public, recommendations of the Planning Commission, recommendations of staff and the Workforce Housing Task Force and its counsel, and other matters, and;

WHEREAS, the Board of County Commissioners makes the following Findings of Fact:

1. Monroe County and its municipalities have a mutual interest in preserving and providing affordable housing Countywide.
2. The lack of sufficient affordable housing opportunities for the local workforce creates serious risks to the local economy.
3. Due to state-imposed requirements related to hurricane evacuation standards, there are a limited number of residential building permits available on an annual basis.
4. There is limited land area suitable for residential development remaining in the County.
5. There is a current unmet need of about 7,317 affordable units in the County.
6. The extreme scarcity of remaining immediately “buildable” lots upon which affordable/employee housing can be constructed under current regulations to amply justify increasing incentives for donation of such lots to the County for use as affordable/ employee housing sites.
7. These amendments to the land development regulations are necessary to provide incentives for the creation of a range of affordable units and to ensure that, despite the limited availability of developable lands, suitable parcels in the Mixed Use/Commercial land use category are used to augment the County’s existing and future housing stock.

8. The number of ROGO points awarded for donations of buildable lots to the County from applicants for market-rate ROGO allocation awards should be adjusted to provide stronger incentives for applicants to acquire and donate immediately and truly “buildable” lots to the County.

9. On April 10, 2006, the City of Marathon passed a similar ordinance adjusting point values for certain land donations to increase the supply of affordable housing (Ordinance 2006-05).

10. These amendments to the land development regulations specifically further Fla. Stat. § 163.3202(3) by implementing innovative land development regulation provisions such as transfer of development rights, incentive and inclusionary housing.

11. These amendments to the land development regulations are necessary to ensure that, despite the limited availability of developable lands, the County’s existing and future housing stock includes adequate affordable housing opportunities.

12. The proposed amendments to the Land Development Regulations are consistent with and further goals, objectives and policies of the Year 2010 Comprehensive Plan.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, THE FOLLOWING: That the preceding findings support its decision to approve the amendments to the Land Development Regulations of the Monroe County Code as provided herein:

Section 1: Amend Sec. 9.5-122.3(a)(5) to read as follows:

(a) *Evaluation Criteria:* the point values established on the following pages are to be applied cumulatively except where otherwise specified.

(5) *Land Dedication:* The following points are intended to encourage the voluntary dedication of vacant, buildable land within those areas proposed for acquisition by governmental agencies for the purposes of conservation, resource protection or affordable and/or employee housing.

TABLE INSET:

Point Assignment:	Criteria:
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	proposed for acquisition by governmental agencies for the purposes of conservation or resource protection.
+6	An application which includes the dedication to Monroe County of one (1) legally platted, buildable lot, upon which no negative environmental conditions or other factors would otherwise prevent the immediate construction of an affordable/employee housing unit by a qualified owner/developer. For donated parcels upon which more than a single unit of affordable/employee housing can immediately be constructed, the donor shall receive six (6) points for each such unit that may be built on the donated parcel. Any points awarded under this section shall be based upon buildability of units that count as a full ROGO allocation (i.e., not affordable ROGO half units), regardless of the size of the unit. ROGO or scoring points awarded hereunder shall be bankable, transferable, assignable and capable of being used to obtain an award for an allocation in any Monroe County planning subarea on equal or less environmentally sensitive land than the donated lot, excluding Tier I areas, Big Pine Key, No Name Key or Special Protection Areas where any clearing of native vegetation would be required.
	<p><i>Additional requirements:</i></p> <p>1. “Buildable” means construction of a dwelling unit or some development that could be permitted, as determined by the director of planning.</p>
	2. The application shall include but not be limited to the following:
	<ul style="list-style-type: none"> • An affidavit of ownership of all affected lots, parcels, acreage or land;
	<ul style="list-style-type: none"> • A statutory warranty deed that conveys the dedicated property to the County shall be approved by the growth management director and County attorney and recorded in the office of the County clerk prior to the issuance of any building permit pursuant to an allocation award.

Section 2. Severability.

If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered.

Section 3. Conflicting Provisions.

In the case of direct conflict between any provision of this ordinance and a portion or provision of any appropriate federal, state or county law, rule, code or regulation, the more restrictive shall apply.

Section 4. Transmittal.

This ordinance shall be transmitted by the Planning and Environmental Resources Department to the Florida Department of Community Affairs to determine the consistency of this ordinance with the Florida Statutes and as required by F.S. 380.05(6) and (11).

Section 5. Filing.

This ordinance shall be filed in the Office of the Secretary of State of Florida but shall not become effective until a notice is issued by the Department of Community Affairs or Administration Commission approving the ordinance.

Section 6. Effective Date.

This ordinance shall become effective as provided by law and stated above. Where Comprehensive Plan amendments may be required in order for any part of this ordinance to be deemed consistent with the Comprehensive Plan, the effective date of such part shall be as of the effective date of the required Comprehensive Plan amendment and as otherwise required by law.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the ____ day of _____, 2006.

Mayor Charles "Sonny" McCoy	_____
Mayor Pro Tem Dixie Spehar	_____
Commissioner George Neugent	_____
Commissioner Glenn Patton	_____
Commissioner David Rice	_____

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY: _____
Mayor Charles "Sonny" McCoy

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

Deputy Clerk

APPROVED AS TO FORM:

County Attorney